



Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2013-0094; FRL-9833-1]

**Revision of Air Quality Implementation Plan; California; Placer
County Air Pollution Control District and Feather River Air
Quality Management District; Stationary Source Permits**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and technical amendment.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of two permitting rules submitted by California as a revision to the Placer County Air Pollution Control District (PCAPCD) and Feather River Air Quality Management District (FRAQMD) portion of the California State Implementation Plan (SIP). These revisions were proposed in the Federal Register on February 22, 2013 and concern construction and modification of stationary sources of air pollution within each District. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA). Final approval of these rules makes the rules federally enforceable and corrects program deficiencies identified in a previous EPA rulemaking (76 FR 44809, July 27, 2011). EPA is also making a technical amendment to the Code of Federal Regulations (CFR) to reflect this previous rulemaking, which removed an obsolete provision

from the California SIP.

DATES: This rule is effective on [Insert date 30 days from the date of publication in the Federal Register].

ADDRESSES: EPA has established docket number EPA-R09-OAR-2013-0094 for this action. Generally, documents in the docket for this action are available electronically at www.regulations.gov or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents are listed at www.regulations.gov, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, (415) 972-3534, yannayon.laura@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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I. Proposed Action

On February 22, 2013 (78 FR 12267), EPA proposed a limited approval and limited disapproval of the following rules that were submitted for incorporation into the California SIP.

Table 1 - Submitted Rules

Local Agency	Rule #	Rule Title	Amended	Submitted
PCAPCD	502	New Source Review	10/13/11	11/18/11
FRAQMD	10.1	New Source Review	2/7/12	9/21/12

We proposed a limited approval because we determined that these rules improve the SIP and are largely consistent with the applicable CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions do not satisfy the requirements of section 110 and part D of the Act.

Specifically:

- Both rules are missing a component of the definition for the term "Regulated NSR Pollutant," as it relates to PM_{2.5} condensable emissions.
- Placer County Rule 502 is not supported by a justification for the stated PM_{2.5} interpollutant offset ratios.
- Feather River Rule 10.1 contains certain language in new Sections B.4 and B.5 that entirely exempts from regulation

pollutants when EPA redesignates the area from nonattainment to attainment. As worded, the provision is too broad, in that it exempts such pollutants from all the requirements of Section E of the rule, rather than just those provisions which apply to major sources of nonattainment pollutants.

Our proposed rule and related Technical Support Document (TSD) contain more information on the basis for this rulemaking and on our evaluation of the submitted rules.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received one comment from Harold Peterson of Huntsville, Alabama. We summarize the comment and provide our response below.

Comment: The commenter opposed what he described as EPA's "proposal to terminate sanction clocks with respect to the July 27, 2011 ruling," and explained that although "it makes sense to stay the sanctions and pause the clock while the amended Rules 502 and 10.1 are being reviewed, . . . to remove all sanctions based on a limited approval/disapproval of the new rules [would be] inconsistent with the July 27 ruling to impose sanctions based on another limited approval/disapproval." The commenter stated that "[a] more logical approach would be to start a new

18 month clock based on the February 22, 2013 [rulemaking]."

The commenter also stated that "a new clock may already have been put in place in another docket" and that, if so, he would find EPA's proposed action acceptable "pending the inclusion of a reference to the other docket."

EPA Response: To the extent the commenter intended to state that EPA does not have a basis for terminating all sanctions clocks associated with PCAPCD Rule 502 and FRAQMD Rule 10.1 and that EPA's current action should, instead, start a new 18-month sanctions clock based on the new rule deficiencies identified in our February 22, 2013 proposal, we agree. As explained in our February 22, 2013 proposed rule and in our simultaneous interim final determination to stay and defer sanctions based on that proposal, the amended versions of PCAPCD Rule 502 and FRAQMD Rule 10.1 that California submitted in 2011 and 2012, respectively, corrected the deficiencies identified in our July 27, 2011 disapproval action but contained new deficiencies that were the basis for a new limited disapproval and associated sanctions clock. See 78 FR 12267, 12269 second column ("If EPA finalizes the limited approval and limited disapproval action, as proposed, then a sanctions clock, and EPA's obligation to promulgate a Federal implementation plan, would be triggered. . . ."); see also 78 FR 12243 (stating that EPA was proposing a

limited approval/limited disapproval because the amended rules "correct the deficiencies identified in our July 27, 2011 disapproval action, but other revisions have created new deficiencies."). EPA also stated that the interim final determination to stay and defer "sanctions associated with PCAPCD Rule 502 and FRAQMD Rule 10.1 (as adopted 2010 and 2009 respectively) [was] based on our concurrent proposal to approve the State's SIP revision as *correcting the deficiencies that initiated sanctions*" (emphasis added). 78 FR 12243, 12244.

Consistent with our proposal, we are clarifying in this final rule that the effect of this action is to terminate only those sanctions clocks that were triggered by our July 27, 2011 final limited approval and limited disapproval of PCAPCD Rule 502, as adopted in 2010, and FRAQMD Rule 10.1, as adopted in 2009 (76 FR 44809, docket number EPA-R09-OAR-2011-0461), and to start a new sanctions clock based on the new rule deficiencies identified in our February 22, 2013 proposal on the amended rules, as adopted in 2011 and 2012 (78 FR 12267, docket number EPA-R09-OAR-2013-0094). This is because, although EPA has determined that the amended rules submitted by the State in 2011 and 2012 correct the deficiencies forming the basis of EPA's July 27, 2011 limited disapproval, EPA has identified new, unrelated rule deficiencies in the amended rules that form the

basis of a new limited disapproval that we are finalizing today. See 40 CFR 52.31(d) (sanction application sequencing). The commenter correctly notes that these two rulemakings have separate public dockets, as discussed above.

III. EPA Action

No comments were submitted that change our assessment that submitted PCAPCD Rule 502 and FRAQMD Rule 10.1 satisfy the applicable CAA requirements in part. Therefore, under CAA sections 110(k)(3) and 301(a) and for the reasons set forth in our February 22, 2013 proposed rule, we are finalizing a limited approval and limited disapproval of PCAPCD Rule 502 (as amended October 31, 2011) and FRAQMD Rule 10.1 (as amended February 7, 2012). This action incorporates the submitted rules into the PCAPCD and FRAQMD portions of the California SIP and makes them federally enforceable.

We are also making a technical amendment to 40 CFR 52.220 to remove a previous SIP rule, PCAPCD Rule 508, from the PCAPCD portion of the California SIP, consistent with EPA's final rule at 76 FR 44809 (July 27, 2011). As explained in the proposal for this 2011 rulemaking, both EPA and the District had intended for Rule 502 to replace the preexisting NSR program in Rule 508, which EPA had approved into the SIP in 1982. See 76 FR 28945

(May 19, 2011).¹ In the regulatory text codifying this final action, however, EPA incorporated Rule 502 into the SIP but neglected to remove Rule 508. See 76 FR at 44811. We are making a technical amendment to 40 CFR 52.220 to correct this error by removing Rule 508 from the PCAPCD portion of the California SIP. This technical amendment makes no change to the substance of our July 27, 2011 final action or to today's final limited approval and limited disapproval of amended PCAPCD Rule 502 and FRAQMD Rule 10.1.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements, in part, and does not impose additional requirements beyond those imposed by State law. For that reason, this final action:

¹ EPA's Technical Support Document for this proposal stated incorrectly that Rule 508 had previously been approved into the SIP on May 18, 1981 at 46 FR 27115. See U.S. EPA, Region IX, Technical Support Document for EPA's Notice of Proposed Rulemaking for the California SIP, Placer County Air Pollution Control District, Rule 502 (New Source Review), May 6, 2011, at 1. The correct cite and date for this previous SIP action is 47 FR 29536 (July 7, 1982).

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this final rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 28, 2013

Alexis Strauss,
Acting Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for Part 52 continues to read as follows:

AUTHORITY: 42 U.S.C. 7401 et seq.

Subpart F - California

2. Section 52.220 is amended by adding paragraphs

(c) (52) (xiii) (G), (c) (80) (i) (G), (c) (416) (i) (C) and

(c) (423) (i) (F) to read as follows:

§52.220 Identification of plan.

* * * * *

(c) * * *

(52) * * *

(xiii) * * *

(G) Previously approved on July 7, 1982 in paragraph

(c) (52) (xiii) (C) of this section and now deleted without replacement: Rule 508.

* * * * *

(80) * * *

(i) * * *

(G) Previously approved on June 23, 1982 in paragraph

(c) (80) (i) (E) of this section and now deleted without

replacement: Rule 508.

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(416) New and amended regulations were submitted on November 18, 2011, by the Governor's Designee.

(i) Incorporation by Reference.

(C) Placer County Air Pollution Control District.

(1) Rule 502, "New Source Review," as amended on October 13, 2011.

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(423) New and amended regulations were submitted on September 21, 2012, by the Governor's Designee.

(i) Incorporation by Reference.

(F) Feather River Air Quality Management District.

(1) Rule 10.1, "New Source Review," as amended on February 6, 2012.

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[FR Doc. 2013-23096 Filed 09/23/2013 at 8:45 am; Publication
Date: 09/24/2013]